

Rules for the Licensing of Child Care Facilities

CHAPTER I CHILD CARE FACILITIES

All Child Care Facilities must comply with the Rules in Chapter I, unless otherwise noted. Child Care Facilities licensed in accordance with these Rules include all Childcare Centers and Small Childcare Facilities.

Section I STATEMENT OF PURPOSE

The purpose of these Rules is to revise licensing standards for Child Care Facilities (formerly known as Children's Day Care Centers). The Rules support childcare services which meet children's psychosocial and developmental needs while providing a safe, healthy and secure environment.

Section II. DEFINITIONS

- A. **"Abuse or neglect"** means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, by a person responsible for the child.
- B. **"Adult"** means a person eighteen (18) years of age and over.
- C. **"Child or children"** means a child or children under the age of sixteen (16) years.
- D. **"Childcare Center"** means:
 - 1. A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for thirteen (13) or more children under thirteen (13) years of age; or
 - 2. Any location or locations operated as a single childcare program or by a single person or persons when there are more than twelve (12) children being cared for.
- E. **"Child Care Facility"** means a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for three (3) or more children under thirteen (13) years of age. There are two types of Child Care Facilities:
 - 1. Child Care Center; and
 - 2. Small Child Care Facility.

“Child Care Facility” does not include a facility operated by a home day care provider or a summer camp established solely for recreational and educational purposes or a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.

- F. **“Community Services Center”** means the Community Services Center, including the Division of Licensing, Childcare Licensing Unit, which is responsible for issuing Child Care Facilities licenses and for monitoring compliance with these rules, on behalf of the Department of Health and Human Services.
- G. **“Corporal punishment”** means actions against a child, including, but not limited to:
1. Slapping;
 2. Striking;
 3. Shaking;
 4. Shoving;
 5. Spanking;
 6. Pinching;
 7. Twisting;
 8. Kicking;
 9. Biting;
 10. Ear pulling or ear twisting;
 11. Hair pulling;
 12. Forcing a child to taste or eat spicy, bitter or otherwise distasteful products for the purpose of discipline;
 13. Spraying with water as a means of controlling behavior;
 14. Placing tape over a child’s mouth;
 15. Mechanical restraints, such as tying a child to a chair;
 16. Other forms of aggressive contact; or
 17. Requiring or forcing a child to take an uncomfortable position such as:
 - Squatting;
 - Kneeling;
 - Standing holding arms outstretched at sides or overhead;
 - Bending; or
 - Requiring or forcing a child to repeat physical movements.
- H. **“Department”** means the Department of Health and Human Services.
- I. **“Director”** means the individual having responsibility for carrying out policy and administering the facility. In a corporation or trust the individual delegated to carry out or enforce policies developed by the Governing Body or trustees.

NOTE: The Director may also act as head teacher.

- J. **“Field trip”** means any excursion off the property of the Child Care Facility.
- K. **“Governing body”** means a person or persons ultimately responsible for the operation of a facility. The governing body has authority over the policies and activities of a facility.
- L. **“Group”** means a specific number of children assigned to specific staff using the same room or identifiable activity space. The space shall be an individual room or a specific area within a large room. The area shall be defined by a visible barrier, partition or other room divider having a height above the eye level of the children who will use that area. Maximum group size is determined by Section XXIX.A of these Rules.
- M. **“Group leader”** means the person having responsibility for a group of children in a facility licensed for thirteen (13) or more children.
- N. **“Head teacher”** means the individual having overall program responsibility for children enrolled at the facility.
- O. **“Infant/toddler program”** means a childcare program serving children ages six (6) weeks to thirty-six (36) months.
- P. **“Legal guardian”** means the parent or other person who has legal decision-making authority for the child.
- Q. **“License”** means written permission, whether provisional, temporary, conditional or full by the Department which authorizes the licensee to operate a Child Care Facility.
- R. **“Licensee”** means the person to whom a license has been issued.
- S. **“Occasional care program”** means a Child Care Facility caring for children on a drop-in or otherwise irregular basis, for example, one located in a ski area or shopping center.
- T. **“Operator”** means the person operating a Child Care Facility.
- U. **“Parent”** means the birth or adoptive mother or father, legal guardian or legal custodian of the child.

-
- V. **“Person”** means any individual, partnership, association, organization, corporation or trust.

 - W. **“Preschool child”** means a child age two and one half (2 ½) years through five (5) years old.

 - X. **“Provider”** means any person, partnership, agency, voluntary association or corporation who owns/leases building and conducts a children’s day care program for children in that building.

 - Y. **“Relatives”** means a child's blood mother, father, brother, sister, grandparent, great grandparent, uncle, aunt, niece, nephew, or first cousin.

 - Z. **“Relatives by adoption”** "Relatives by adoption" shall be considered as blood relatives.

 - AA. **“Relatives by marriage”** means a child's step-mother, step-father, step-brother, step-sister, step-grandparent, step-great grand parent and brother or sister of step-parent.

 - BB. **“School age child”** means a child who is at least five (5) years of age and under the age of sixteen (16) years.

 - CC. **“Small Childcare Facility”** means a house or other place, not the residence of the operator, in which a person, or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 -12 children under the age of thirteen (13).

 - DD. **“Staff”** means any individual who provides care and protection for a child(ren) under the age of sixteen (16) years of age in a Child Care Facility.

 - EE. **“Substitute”** means an individual who takes the place of an absent staff member.

 - FF. **“Volunteer”** means a person who helps or provides service without compensation in a Child Care Facility.

Section III. LICENSING REQUIREMENTS and PROCEDURES

- A. **License required.** Any person operating a Child Care Facility for children under sixteen (16) years of age as defined in II.E. is required to have a license from the Department of Health and Human Services to operate this facility.
- B. **Unlicensed facilities.** No person or entity shall operate a Child Care Facility for more than two (2) children without a license from the Department in force, authorizing such operation. (Title 22, M.R.S.A. § 7801)
- C. **Responsibility for compliance.** The person or entity applying for the license shall be responsible for complying with Maine Statutes and Rules adopted pursuant thereto. (Title 22, M.R.S.A. § 7801)
- D. **Qualifications of the applicant and director.** The applicant and proposed director must demonstrate their willingness and ability to operate and manage the Child Care Facility with mature judgment, compassionate regard for the best interests of children and consistent compliance with these regulations and all relevant laws. In making this determination, the Department shall consider each of the following factors to the extent that they are relevant to the proposed facility, ownership interest and/or employment:
1. Record and reputation for honest and lawful conduct in business and personal affairs. The applicant shall, as part of the license application and renewal process, authorize the Department to review the records of professional licensing boards or registers, any criminal record, child protective record, institutional abuse record or adult protective record necessary to determine compliance with these Rules;
 2. Management and supervisory experience, including the capacity to manage the financial operations and staff of the Child Care Facility for which the license is sought;
 3. Experience in the field of childcare, child development or areas related to the provision of childcare services;

4. Conduct which demonstrates an understanding of, and compliance with, rights for children in Child Care Facilities;
 5. Information which relates to the ability or willingness to comply with all applicable laws and rules;
 6. Any information reasonably related to the ability to provide safe and developmentally appropriate services at the level of care for which the license is sought.
- E. **Changes in children served and licensed capacity.** No person shall care for more children or for children who are older or younger than the childcare ratios and license allows. At the discretion of the Department the license may be amended or reissued to increase or decrease the number of children allowed or to change the age range of children which may be cared for by the facility.
- F. **Application for initial license.** Application for an initial license shall be made to the Department of Health and Human Services, Community Services Center, Division of Licensing, Childcare Licensing Unit, State House Station #11, Augusta, Maine 04333, on forms furnished by the Department, and the appropriate fee must be included. Incomplete applications on which no action has been taken by the applicant shall be void after sixty (60) days.
- G. **Application for renewal of license.** At least sixty (60) days prior to the expiration of a license to operate a Child Care Facility, an application and the required fee for a renewal thereof shall be submitted to the Department on a form supplied by the Department, and accompanied by such additional information as may be required. It is the responsibility of the licensee to make timely application for renewal.
- Upon receipt and review of applications and determination of compliance with the requirements of the Maine Revised Statutes Annotated and any rules adopted pursuant thereof, the Department shall renew such license for a period of one (1) year, unless it finds that there are specific and sufficient grounds either for denial of the application for renewal or for renewal of the license on a temporary or conditional basis. If timely application for renewal is made, the existing license shall continue until a final decision on the renewal is made.
- H. **Fees.** Fees for license application and annual renewal will be established based on an analysis of the Department's costs for issuing the license. Fees will not exceed the cost of issuing licenses.

- I. **Requirement for references.** At the time of application references will be required from three (3) persons who are acquainted with but not related to the day care center operator. If the Child Care Facility is operated by other than an individual, said references will pertain to the director who has primary responsibility for the operation of the Child Care Facility.
- J. **Licenses are only effective at the location for which they are issued.** If the program moves to another location, a new license must be issued prior to operation.
- K. **Single license for two buildings.** When two (2) or more buildings are or will be utilized to accommodate facilities operated by the same person, the person shall apply to the Department for a single license covering all the facilities, provided that:
 1. The buildings are on the same or contiguous properties; and
 2. The Department determines that the issuance of a single Child Care Facility license would not be detrimental to the health, safety, well-being, and development of the children served.

The programs shall have the same director.
- L. **One license per single family residence.** No more than one Child Care Facility license shall be issued in any residence occupied by a single family.
- M. **Dual licensure.** No license to operate a Child Care Facility shall be issued to anyone holding a license to provide foster care for children without prior approval from the Director of the Division of Licensing or designee.
- N. **Initial inspections.** Following receipt of a complete application for a license to operate a Child Care Facility, a representative of the Department will conduct an inspection of the facility, its policies and program to evaluate compliance with applicable rules adopted by the Department of Health and Human Services.
- O. **Determining compliance with these rules.** In some instances, there are no common definitions as to degree of compliance with rules. When such instances occur in these

rules, the determination of compliance or non-compliance shall be made at the discretion of the Department.

P. Right of entry.

1. The Department shall have the right to enter upon and into the premises of any licensed program site pursuant to these Rules at any reasonable time, in order to determine the state of compliance with the provisions of these Rules and applicable laws.

2. Such right of entry and inspection shall extend to any premises which the Department has reason to believe is being operated or maintained as Child Care Facility without a license, but no such entry or inspection of any

premises shall be made without the permission of the owner or person in charge thereof unless a warrant is first obtained from the court of jurisdiction authorizing the same.

Q. Application constitutes permission for entry. Any application for a license made pursuant to these rules shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted or in connection with such application.

R. Fire safety inspection. No license to operate a Child Care Facility at any location can be issued until such facility passes a satisfactory inspection for fire safety and fire protection. Such an inspection must be made biennially (every two years) thereafter if the renewal license is to be issued. All inspections shall be made under the provisions of Title 25, Sections including 2360, 2391 and 2452 of the Maine Revised Statutes and other fire prevention statutes and rules and regulations promulgated by the Department of Public Safety of the State of Maine. Inspections need to be made by a person approved by the Maine Department of Public Safety.

S. Increases in licensed capacity. Requests for any increase in the number of children the Child Care Facility is licensed to serve shall be made in writing to the Department. No increases in the number of children a program is licensed to serve shall be made without prior written approval from the Department.

T. Private water supplies. Water, which is used for drinking and cooking purposes must be obtained from a municipal water system or other satisfactory supply which meets the standards of the Division of Health Engineering of the Department of Health and Human

Services. Water shall be tested for the following: coliform bacteria, nitrate and nitrite nitrogen, fluoride, chloride, hardness, copper, iron, pH, manganese, lead, and arsenic. If a satisfactory supply cannot be provided, a license or renewal of a license cannot be issued.

- U. **Criminal history and child protection reports.** Criminal history reports, out of home abuse investigation reports and child protection reports shall be obtained for each individual applicant for a license, and for each paid, unpaid, temporary or regular staff member, director, or volunteer, in a Child Care Facility as required by Section XII.B. Criminal history reports, and child protection reports shall also be obtained for governing body members, trustees, partners, corporate officers, owners or operators who serve in a child caring capacity at the facility.

Section IV. TYPES OF LICENSES

The Department shall issue the following types of licenses:

- A. **Provisional license.** A provisional license shall be issued by the Department to any applicant who meets all of the following:
1. Has not previously operated the facility for which the application is made or is licensed but has not operated during the time of that license;
 2. Complies with all applicable laws and rules, except those which can only be complied with once clients are served by the applicant; and
 3. Demonstrates the ability to comply with all applicable laws and Rules by the end of the provisional license term.
- B. **Full license.** The Department shall issue a full license to an applicant who, in the Department's determination, complies with all applicable laws and Rules.
- C. **Conditional license.** A conditional license may be issued by the Department when the licensee or applicant fails to comply with the applicable law and rules and, in the judgment of the Commissioner, the best interest of the public would be so served by issuing a conditional license. The Department shall specify in writing when and what corrections must be made during the term of the conditional license.

- D. **Temporary license.** A temporary license may be issued by the Department whenever a licensed Child Care Facility moves to a new location. The Department may issue a temporary license, valid pending final action on the application for the new location when:
1. All applicable standards have been met except a requirement that is dependent on the action of an agency of state government or a contractor of that agency; and
 2. Through no action by the applicant that causes a significant delay, timely issuance of a provisional or full license has been delayed by the agency or contractor.

Section V. TERM OF LICENSE

- A. **Term of provisional license.** The provisional license shall be issued for a minimum period of three (3) months or a longer period, as deemed appropriate by the Department, not to exceed twelve (12) consecutive months.
- B. **Term of full license.** The term of a full license shall be for one (1) year.
- C. **Term of conditional license.** The conditional license shall be issued for a specific period, not to exceed one (1) year, or the remaining period of the previous full license, whichever the Department determines appropriate based on the laws and Rules violated.
- D. **Term of temporary license.** The temporary license shall be issued for a specific period, not to exceed six (6) months.
- E. **Monitoring for compliance.** Regardless of the term and type of the licenses, the Department shall monitor for the continued compliance with applicable laws and rules on at least an annual basis.

Section VI. FAILURE TO COMPLY WITH APPLICABLE LAWS AND RULES

- A. **Failure to comply with applicable laws and rules.** When an applicant fails to comply with applicable laws and rules, the Department may refuse to issue or renew the license.

The notice of a refusal to issue or renew and a statement indicating the reasons for refusal shall be formulated in writing and mailed to the applicant.

B. Other sanctions for failure to comply.

1. **Conditional license.** If, at the expiration of a full or provisional license or during the term of a full license, the facility fails to comply with applicable laws and rules and, in the judgment of the Commissioner, the best interest of the public would be served, the Department may issue a conditional license, or change a full license to a conditional license. Failure by the conditional licensee to meet the conditions specified by the Department shall permit the Department to void the conditional license or refuse to issue a full license. The conditional license shall be void when the Department has delivered in hand or by certified mail a written notice to the licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left written notice thereof at the agency or facility.
2. **Refusal to issue a license.** The Department shall refuse to issue a license to the applicant identified in the application if it finds any representation made in the application to be materially incorrect or insufficient, or if it finds that the applicant or director of the program does not meet all requirements of law and rules.
3. **Suspension or revocation of a license.** The Department may suspend or revoke any license for violation of applicable laws and rules; for committing, permitting, aiding or abetting any illegal practices in the operation of the program or for conduct or practices detrimental to the welfare of children participating in the program.
 - a) **Emergency suspension.** Whenever, upon investigation, conditions are found which, in the opinion of the Department, immediately endanger the health or safety of children attending the Child Care Facility, the Department may request the District Court for an emergency suspension pursuant to Title 4, M.R.S.A. § 184(6).

- b) **Administrative suspension.** Whenever conditions exist that immediately jeopardize the health and safety of children, the Commissioner of the Department of Health and Human Services may issue an order of closure, which suspends the Child Care Facility license for up to ten (10) days, pending further investigation or prior to obtaining an order of emergency suspension from the court. The Department shall require that an order of closure be posted at the facility and made public as it determines to be most appropriate for parents and other potential customers.

4. **Intermediate sanctions.**

- a) **Grounds for intermediate sanctions.** The following circumstances shall be grounds for the imposition of intermediate sanctions:
 - 1) Operation of a Child Care Facility without a license;
 - 2) Impeding or interfering with the enforcement of laws or regulations governing the licensing of a Child Care Facility, or giving false information in connection with the enforcement of such laws and rules; and/or
 - 3) Failure to comply with **Rights for Children in Child Care Facilities**, Section XI of these Rules.
- b) **Intermediate sanctions.** The Department is authorized to impose one or more of the following intermediate sanctions when any of the circumstances listed in Section VI.B.4. are present and the Department determines that a sanction is necessary and appropriate to ensure compliance with State licensing rules to protect the children of a Child Care Facility or the general public:
 - 1) The Child Care Facility may be directed to stop all new admissions until such time as it determines that corrective action has been taken.
 - 2) The Department may impose a financial penalty upon a Child Care Facility.

5. **Financial penalties.**

- a) The amount of any penalty to be imposed shall be calculated as follows:

- 1) Operation of a Child Care Facility without a license: \$100.00 per child per day.
 - 2) Impeding, interfering or giving false information in connection with the enforcement of laws or rules governing licensure: \$500.00 per incident.
 - 3) Violation of Rules governing child-to-staff ratios outlined in these Rules is a violation for which an administrative penalty not to exceed \$500.00 per incident or \$500.00 per number of children above the limitation set by rule, or both, may be adjudged.
 - 4) Violation of Rules governing records disclosure and confidentiality outlined in these Rules commits a violation for which an administrative penalty not to exceed \$500.00 per incident or \$500.00 per number of children above the limitation set by rule, or both, may be adjudged.
 - 5) Violation of Rights for Children in Child Care Facilities, Section XI: \$50.00 per incident.
- b) If the Department assesses financial penalties, an Assessment of Penalties will be issued. The Assessment shall describe each violation found to have been committed by the Child Care Facility, the rule or law that has been violated and any scheduled amount of time corresponding to that violation. If the provider does not contest the imposition or amount of the penalty, the provider must pay within thirty (30) days of receipt of the Assessment of Penalties. If the provider disagrees with the imposition or amount of the penalty, the provider must notify the Department, in writing, stating the nature of the disagreement, within ten (10) working days of receipt of the Assessment of Penalties. The Department will schedule an informal conference to resolve the dispute and a written decision based on this conference will be provided. If the provider is still dissatisfied with the written decision, an administrative hearing may be requested in accordance with Section VIII.
- c) Any Child Care Facility that is unable to immediately pay penalties may apply to the Department for a delay in payment or installment payments or, in certain circumstances, to have the penalty reduced.
- 1) In order to have the payment delayed or paid in installments, a provider must supply sufficient information to the Department to demonstrate that immediate full payment of the total amount due

would result in the interruption of the provision of necessary services to children.

- 2) In order to have a fine reduced, a provider must supply sufficient information to the Department to demonstrate that payment in full would result in a permanent interruption in the provision of necessary services to children.
- 3) The Department has the authority to determine whether a provider has supplied sufficient information to the Department.

Section VII. SUBSEQUENT APPLICATION FOR A FULL LICENSE

Subsequent to any of the following actions, a subsequent application for a full license may be considered by the Department when the deficiencies identified by the Department at the time the action was taken have been corrected:

- A. Issuance or voiding of a conditional license;
- B. Refusal to issue or renew a full license;
- C. Revocation or suspension of a full license; or
- D. Refusal to issue a provisional license.

Section VIII. APPEAL PROCEDURE

Any person aggrieved by the Department's decision to take any of the following actions, or to impose any of the following sanctions, may request an administrative hearing to refute the basis of the Department's decision, as provided by the Maine Administrative Procedure Act, Title 5, Chapter 375. Administrative hearings will be held in conformity with the Department's Administrative Hearing Regulations. A request for a hearing must be made, in writing, to the Director of the Division of Licensing, Community Services Center, and must specify the reason for the appeal. Any request must be mailed within ten (10) working days from receipt of the Department's decision to:

- A. Issue a conditional license;

- B. Amend or modify a license;
- C. Void a conditional license;
- D. Refuse to issue or renew a full license;
- E. Refuse to issue a provisional license; or
- F. Impose a fine.

Section IX. WAIVERS

- A. **Request for waiver.** The Commissioner or designee may upon written request of any licensee or applicant waive or modify a provision of these rules, which is not mandated by Maine Statute. The licensee or applicant shall provide clear and convincing evidence, including at the request of the Commissioner or his/her designee, expert opinion which satisfies the Commissioner or his/her designee that the applicant or licensee's alternative method will comply with the intent of the rule for which waiver or modification is sought. Application for a waiver or modification shall be made on forms supplied by the Department and must include:
 - 1. A statement of the provision for which waiver or modification is requested;
 - 2. An explanation of the reasons why the provisions cannot be met and why a waiver or modification is being requested; and
 - 3. A description of the alternative method proposed for meeting the intent of the provision sought to be waived or modified.
- C. **Granting of waivers.** All requests will be answered in writing and a record of them will be maintained. Such waiver or modification shall be granted for a specific period of time not to exceed the period of the license. Prior to the expiration of the license, if the waiver or modification continues to be necessary, a new application for waiver or modification must be made. Extensions will only be granted where the best interest of the child(ren) is served.

Section X. ORGANIZATION and ADMINISTRATION**A. Administration**

1. Child Care Facilities may be operated as for-profit or not-for-profit operations.
2. A corporation, partnership, association, or trust shall identify the names and addresses of its officers, partners, trustees, or directors and shall provide, where applicable, the charter, partnership agreement, constitutions, articles of incorporation and by-laws or trust document.
3. **Licensee responsibility for the facility.** The licensee is responsible for the overall operation of the Child Care Facility.
4. **Other administrative responsibilities.** The applicant or licensee shall:
 - a) Define the purpose of the service;
 - b) Develop policies and provide for their implementation. This shall include, at a minimum, policies for the following:
 - 1) Child abuse reports
 - 2) Child behavior guidance;
 - 3) Children who are ill;
 - 4) Financial policies for families;
 - 5) Fire drill procedures;
 - 6) Emergency procedures;
 - 7) Business hours;
 - 8) Staff qualifications and training;
 - 9) Supervision of staff;
 - 10) Reporting licensing violations;
 - 11) Inclusionary practices for children with disabilities; and
 - 12) Admission policy as outlined in Section X.C.2 of these Rules
 - c) The licensee is responsible for assuring that the facility's policies are followed. This includes:
 - 1) Responsibility for establishing and maintaining a sound financial structure; and

- 2) Being qualified to administer the facility or have a qualified person to administer the facility.

5. Administrative and other records.

- a) The licensee shall maintain complete and accurate fiscal accounts, and required personnel records.
- b) The licensee shall maintain children's records as required by Section XII.A.
- c) Records required by Sections X..A.5.a) and X..A.5.b) shall be retained by the facility for a minimum of six (6) months after the child leaves care or the staff leaves.
- d) The licensee shall keep a daily attendance list of all children. The list shall be available for inspection by the Department of Health and Human Services and be kept on site for six (6) months.

6. Insurance

- a) The Child Care Facility shall carry a minimum liability insurance of \$100,000 per person, \$300,000 per occurrence; a minimum of \$5,000 property damage. Vehicle liability insurances, if transportation is provided, shall be set at a minimum of \$20,000 per person, \$40,000 per accident.
- b) A certificate of liability insurance must be submitted prior to the issuance of a license.

7. **Posting of license.** The licensee shall post, in a conspicuous place, in the facility any current license issued by the Department.
8. **Posting of other notices.** The licensee shall post, in a conspicuous place in the facility, notice of the existence of environmental lead hazards and any other letters, notices or correspondence required by the Department to be posted.
9. **Notification of legal proceedings.** The licensee shall report, in writing, to the Department any legal proceeding whether criminal or civil (within 10 days of initiation of such proceedings) brought against him/her or any person employed by the facility or residing therein if such proceedings arise out of circumstances related

to the care of children in the facility or may affect the continued operation of the Child Care Facility or call into question the suitability of the director, operator, or staff members to care for children.

10. **Notification of change of owner/operator.** The licensee shall provide prior notification, in writing, to the Department upon any change in ownership of the facility.
11. **Notification of change in director.** The licensee shall provide notification, in writing, to the Department of any change in the person designated by the owner or the governing body as qualified director of the facility.
12. **Notification of change in location.** The licensee shall provide notification, in writing, to the Department of any change of location of the facility. The licensee needs to submit an application for licensure of the new location. The licensee (applicant) may not operate Child Care Facility until the Department issues a new license for the new location.
13. **Notification for physical plant changes.** The licensee shall provide written notification to the Department for any changes to the heating system, any structural alterations or any plans to use existing space in the facility that have not been inspected and approved.
14. **Availability of Rules.** The facility shall have a copy of these Rules on the premises and shall make them available to any person upon request.
15. **Transfer of license.** A license shall not be transferred from one licensee to another, from one facility to another, from one location to another, or from one owner to another.
16. **Notification of closure.** The licensee shall provide written notification of closure and expected date of closure of a facility to the Department.

B. Responsibility of the facility to parent(s) involvement

1. **Responsibility to encourage parents to visit.** The facility shall permit and encourage parents to visit the child, to observe the program at any time that the child is present and provide opportunities to participate in activities.
2. **Responsibility to exchange information with legal guardians.** The licensee

shall regularly exchange information with the legal guardian(s) about the child.

3. **Responsibility to advise regarding field trips.** The facility shall advise a child's legal guardian prior to taking children on field trips and shall require the legal guardian's written permission.
4. **Accessibility by telephone.** The facility must be directly accessible to parents/legal guardians by telephone at all times when children are present.
5. **Availability of these Rules to parents.** The licensee shall make available to parents and legal guardians a copy of these Rules at the time of the child's admission to the facility.

C. **Admission and intake**

1. **Pre-admission visits.** The licensee shall encourage parents to visit the facility prior to admission.
2. **Admission policy.** All facilities shall adopt a written description of admissions policies and criteria which shall include:
 - a) Age range;
 - b) Services offered;
 - c) Fees (if any) including charges for late pick-up of children;
 - d) Vacation policy;
 - e) Terms of any contract or placement agreements; and
 - f) Hours of operation.
3. **Immunization records.** The facility shall require immunization records for enrolled children in accordance with Section XVIII.A.1.
4. **Childcare for children with special needs.** All Child Care Facilities shall be in compliance with Americans with Disabilities Act (ADA) standards.
 - a) The licensee cannot require that the parent(s) of children with physical, emotional and/or mental disabilities furnish the facility with information pertaining to the child's disabilities, but is encouraged to ask pertinent developmental questions of all children prior to entrance to ensure appropriate and successful programming.

- b) A Child Care Facility must ensure that all staff are adequately trained and/or have sufficient experience to meet the needs of all children for whom they are responsible.

D. Confidentiality

1. Information about children in care (or formerly in care) and services provided to them by the facility shall be kept confidential and shall be disclosed only upon written authorization of a child's legal guardian., except as otherwise specified by law.
2. Information about children in care (or formerly in care) shall be shared with the Department and licensed child placing agencies upon request.
3. All personnel records shall be confidential but shall be provided to the Department upon request according to Maine Statute (22 M.R.S.A. § 7703).

- E. Employees with communicable diseases.** No facility shall knowingly employ or otherwise permit any person to serve therein, in any capacity, if such person has a communicable or contagious disease which would threaten the health and safety of the children, unless Standard Precautions reduce or eliminate exposure or risk to the children.

Section XI. RIGHTS FOR CHILDREN IN CHILD CARE FACILITIES

- A. Right to freedom from abuse and neglect.** Children shall be free from mental, verbal, physical and/or sexual abuse, neglect and exploitation.
- B. Right to confidentiality.** Children's records and information kept by the Child Care Facility are confidential. Child Care Facilities shall follow the Rules regarding confidentiality as outlined in Section X.D of these Rules.
- C. Right to freedom from harmful actions or practices.** Each child has the right to freedom from harmful actions or practices that are detrimental to his/her welfare and to practices that are potentially harmful to the child.
- D. Right to a safe and healthy environment.** Each child has a right to an environment that meets the health and safety standards in these Rules.
- E. Right to be free from discrimination.** A child shall be provided child care services without regard to race, age, national origin, religion, disability, sex or family composition.

- F. Right to consideration and respect.** Children shall be treated with dignity, consideration and respect in full recognition of their individuality. This includes the use of developmentally appropriate practices by the Child Care Facility.
- G. Right to be informed of services provided by the Child Care Facility.** A child's legal guardian shall be fully informed of items or services which are included in the rate they pay for childcare services.
- H. Right to information regarding the Child Care Facilities' deficiencies.** A child's legal guardian has the right to be fully informed of findings of the most recent licensing review conducted by the Department. The Child Care Facility shall inform children's legal representatives that the licensing review results are public information and available for examination upon request. Legal representatives shall be notified in a timely manner by the Child Care Facility of any actions proposed or taken against the Child Care Facility by the Department, including but not limited to, decisions to issue conditional licenses, refusal to renew a license or to impose fines or other sanctions.
- I. Right to a service plan.** Each child has the right to expect the provider to assist him/her in implementing any reasonable plan of service developed with community or state agencies.
- J. Right to a variety of appropriate activities, materials and equipment.** Each child has a right to a variety of activities, materials and equipment that meets the child's interests and capabilities.
- K. Mandatory report of rights violations.** Any person or professional who provides health care, social services or mental health services or who administers a Child Care Facility or program who reasonably believes that the Rules pertaining to children's rights and the conduct of childcare have been violated, shall report this information to the Community Services Center, Child Care Licensing Unit. Any person reporting suspected abuse and neglect shall report this information to Child Protective Intake Services, pursuant to Title 22, M.R.S.A. § 4011 and Section XXII of these Rules. Documentation shall be maintained in the facility that a report has been made.
- L. Reasonable modifications and accommodations.** To afford individuals with disabilities the opportunity to participate in a Childcare Program, the Child Care Facility shall act as follows:

 1. The Child Care Facility must make reasonable modifications to their policies and practices to include children, parents and guardians with disabilities, unless to do so would be a fundamental alteration of their program.

2. The Child Care Facility must make the facility accessible to people with disabilities. Existing facilities must remove any readily achievable barriers, while newly constructed facilities and any altered portions of existing facilities must be fully accessible. If existing barriers can be easily removed without much difficulty or expense, providers must remove those barriers immediately even if there are no children with disabilities using the program. (Installing offset hinges to widen a door opening, installing grab bars in toilet stalls, or rearranging tables, chairs or other furniture are all examples of readily achievable barrier removal.)

Section XII. RECORDS and REPORTS

A. Child's record

A record shall be completed at the time of admission and maintained by the Child Care Facility on each child in care and shall include:

1. Name, birth date, street address and mailing address of the child;
2. Name, street address, mailing address and telephone number of parent(s) or legal guardian(s);
3. Places of employment of parent(s) or legal guardian(s), if employed;
4. The telephone number and street address and mailing address of parent(s)' or legal guardian(s)' employers;
5. A method of contacting the parent(s) or legal guardian(s) while the child is in care;
6. The name, street address and telephone number of a person other than the parent(s) or legal guardian(s) to contact in case the parent(s) cannot be reached in an emergency;
7. Copy of financial agreement (if any) with parent(s) or legal guardian(s);
8. Dates of enrollment and termination;
9. Record of immunizations (as per Section XVIII.A.1);
10. Names, addresses and telephone numbers of the child's physician and dentist, if available;

11. Written authorization to obtain emergency medical care;
12. Names of persons who are permitted by the parent(s) or legal guardian(s) to remove the child from the facility;
13. A record of injuries sustained while in care of the facility, significant changes in appearance and/or hygiene, or significant changes in behavior (such as: increased aggression, withdrawal, sexual acting out, and/or prolonged tantrums);
14. Allergies and other health conditions, if known; and
15. Special needs, if any.

B. Personnel records

1. A personnel record shall be kept for each paid or unpaid, temporary or regular staff member, director, owner or administrator employed in the Child Care Facility. Parents who volunteer on a regular weekly basis working in the capacity of a paid staff member shall be included.
2. The facility shall maintain a personnel record on volunteers with the exception of 3.b, 3.d, and 3.e below.
3. The personnel record shall contain:
 - a) Name, street and mailing address, birth date, social security number and telephone number;
 - b) Training, education, experience and other qualifications;
 - c) Written references or clear documentation of verbal contact, to include evaluation of employee's and volunteer's ability, character and suitability for work with children;
 - d) An annual evaluation of each employee's performance by the director or immediate supervisor signed by the employee and evaluator;

- e) Dates of employment and termination. Reasons for termination shall be kept in the employee record for a minimum of one year;
 - f) A statement signed by each employee certifying that the licensing rules have been read and understood;
 - g) Record of SBI (State Bureau of Identification) criminal history report. This shall be applied for prior to or at the time of employment;
 - h) Annual motor vehicle check for all persons employed in any Child Care Facility in a capacity involving the transporting of minors as stated in the Child Protection Act, 17 M.R.S.A. § 2872;
 - i) Documentation of disciplinary action.; and
 - j) Immunization records as required by Section XVIII.A.4.
4. These personnel records shall be available for inspection for licensing purposes by the Division of Licensing and Child Protective Services staff of the Department according to Maine Statute (22 MRSA § 7703).

Section XIII. PERSONNEL

A. Staff requirements for all Child Care Facilities

1. Students of at least sixteen (16) years of age serving as assistants or volunteers in a child caring capacity need not be counted as children in care and shall not be counted as staff.
2. Students in Section XIII.A.1 above shall be under the direct supervision and observation of a staff member.
3. There must be present at all times a staff member in each Child Care Facility who is currently certified in first aid and infant, child and adult Cardio Pulmonary Resuscitation (CPR).
4. Administrative and childcare staff must be able to perform their assigned tasks and meet all staff requirements in these Rules.
5. Childcare staff responsible for or assisting with the care of children in the

facility and other paid or unpaid staff and volunteers shall be emotionally stable and mature, able to exercise good judgment in the handling of children and shall not engage in any action or practice that may be deemed detrimental to the welfare of the children.

Actions or practices that may be deemed detrimental to the welfare of children or that are potentially harmful to children are strictly prohibited.

Such actions or practices as defined by the Department of Health and Human Services include but are not limited to the following:

- a) Corporal punishment (as defined in Section II.G of these Rules);
 - b) Use of a stick or other instrument in disciplining a child;
 - c) Sexual abuse;
 - d) Lack of supervision;
 - e) Neglect in any form;
 - f) Withholding food or drink;
 - g) Derogatory remarks to or about children or parents;
 - h) Name calling;
 - i) Shaming or embarrassment;
 - j) Unusual confinement; or
 - k) Rough handling.
6. The applicant or licensee shall immediately report to the Department the following information regarding themselves and information known to them about other persons residing or employed in the facility:
- a) Any convictions for sexual or violent crimes involving adults or activities which could have resulted in convictions for such crimes if prosecuted;

Any crimes involving children or activities which could have resulted in convictions for such crimes if prosecuted;

- b) Any admission to a substance abuse treatment facility, or conviction within the past five years of OUI or for any other activity which involves substance abuse;
- c) Any serious physical or mental health problems that have required admission to a hospital or other inpatient facility;
- d) Whether or not Child Protective Services or the Institutional Abuse Unit (IAU) has ever investigated the provider or other individuals who may have contact with the children in care for allegations of child abuse or neglect;
- e) Any prior conditional licenses, license suspension, fine and/or revocation regarding a child or adult care license or approval issued to the applicant;
- f) The removal of children from their care or custody by court order; and
- g) Any other information regarding their circumstances or treatment of children which is relevant to the Department's decision to issue a license.

If such information as described above exists, the Child Care Facility license applicant or licensee shall furnish the Department with written releases permitting the Department to obtain information regarding any of the above from appropriate officials or persons to determine whether there is a present threat to the health, safety and welfare of children.

In deciding what action to take regarding a license under the foregoing circumstances, the Department shall make a determination if sufficient evidence has been presented by the applicant or licensee to indicate that the problems which resulted in any of the above have been adequately resolved so that the applicant or licensee or other persons residing in or employed in the facility will be in compliance with applicable law and Rules.

Section XIV. STAFF CHILD REQUIREMENTS

A. **Children under six weeks and staff member's children**

1. **Children under six (6) weeks of age.** No child under six (6) weeks of age, as verified by a birth certificate, shall be cared for in a Child Care Facility.
2. **Children of staff members.** Children of staff members shall be counted in the appropriate age groups when in care at the facility.

B. **Supervision**

1. **Supervision for each child.** Each child, during both indoor and outdoor times, shall be supervised by a childcare staff member who is aware of and responsible for the ongoing activity of each child and who is near enough to the child to intervene when needed.
2. **Supervision while napping.** The facility shall provide supervision to children during napping and/or sleeping hours and at all other times by awake staff.
3. **Crying children.** A child crying or crying out shall be attended to.
4. **Emergency plan.** When only one provider or staff member is present at the facility there shall be a plan for obtaining help in an emergency.

C. **Other staffing requirements and responsibilities**

1. **Responsibility for compliance with these Rules.** The on-site Director or Head Teacher shall be responsible for the facility's daily operation in compliance with these Rules.
 - a) If the Director is absent from the facility, a responsible staff member shall be designated to be in charge and be given authority to administer the facility in compliance with these Rules.
 - b) In a facility licensed for 50+ children, if the Director is absent, a staff member who meets Director/Head Teacher qualifications shall be

designated to be in charge and be given authority to administer the facility in compliance with these Rules.

2. The facility licensed for 13-20 shall employ at least one group leader (see Sections II.M. and XXVIII.F.2) who may be the same person as the Director/Head Teacher. Aides or assistants may be employed to complete the ratios.
3. The facility licensed for 21-49 or 50+ shall employ one group leader (see Sections II.M. and XXVIII.F.2) per group of children. Aides or assistants may be employed to complete the ratios.

Section XV. TRAINING

A. Pre-service orientation

1. **Orientation.** All childcare providers shall orient new staff, including volunteers, prior to or during the first week of services in the following:
 - a) *Rules for the Licensing of Child Care Facilities;*
 - b) The facility's programs and policies; and
 - c) Fire drill and other emergency procedures.
2. **Documentation of training.** The facility shall document all pre-service training and show documented evidence of ongoing training of all staff.

- B. **Volunteers and substitutes.** The facility shall provide orientation to volunteers and substitutes to enable them to carry out their assigned tasks.

Section XVI. PROGRAM DESCRIPTION, SCHEDULE, MATERIALS AND EQUIPMENT

A. Program description and schedule

The facility shall describe its program in writing. The following shall be included:

1. Ages of children served;
2. Hours of operation;
3. Numbers of children served;
4. A description of what the program offers children, such as:
 - a) Basic childcare, care for children with special needs, part-time care, infant/toddler care, pre-school care, school-age care, etc.
 - b) Specific focus if applicable (i.e., educational focus, religious focus, Montessori, High Scope, etc.);
5. Opportunities for parent involvement;
6. A description of the child guidance methods used by staff;
7. A sample daily activities schedule which shall be posted at the facility and provided to the Childcare Licensing Unit. The schedule shall include the following as appropriate to the hours of operation:
 - a) Times for meals/snacks;
 - b) Time for sleep, rest, or quiet time;
 - c) A period of time for indoor and outdoor activities appropriate to the developmental needs of the children;
 - d) When necessary, modifications shall be made in the schedule.

B. Indoor and outdoor activities

1. Children in attendance for more than four (4) hours shall have an opportunity for rest of one (1) hour or longer according to the age and needs of the child.
2. There shall be a period of rest or relaxation for at least ten (10) minutes in a program of four (4) or fewer hours.
3. All children shall have a minimum of thirty (30) minutes out of doors each morning session and each afternoon session of more than three and one half (3

½) hours or more, weather permitting. Gross motor activity will be substituted for outdoor time when weather does not permit outdoor time.

4. Television, video viewing and/or use of the computer shall be educational and age appropriate. Television viewing shall be limited to one (1) hour or less per classroom per day.
5. Activities shall be developmentally appropriate.
6. Toileting shall take place based upon individual needs.

C. Materials and equipment

1. **Toys and play equipment.** The facility shall provide toys and equipment for indoor and outdoor activities appropriate to the ages and the numbers of the children. Materials provided and employed shall include a selection from the following areas:
 - a) For infants, a variety of toys, music and books designed to stimulate curiosity, small and large muscle development, hand-eye coordination, and the senses of sights, sound and touch;
 - b) For toddlers and preschool children, sufficient variety to offer activities in the following areas:
 - 1) blocks;
 - 2) housekeeping and dress-up;
 - 3) books and language;
 - 4) arts and crafts;
 - 5) puzzles, games and manipulatives;
 - 6) sensory activities (such as sand and water);
 - 7) science and nature;
 - 8) music; and
 - 9) toys, equipment and space that encourage gross motor development.
2. **Extra clothing for pre-school children.** The facility serving pre-school age children shall have access to extra children's clothing in the event that clothes become soiled or damaged during the activities of the day.
3. **Materials and equipment for children.** Materials and equipment shall be appropriate for children enrolled, including those with special needs.

Section XVII. CHILD GUIDANCE**A. Child guidance**

1. **Positive methods of child guidance.** Staff shall use positive methods of child guidance which encourage self-control, self-direction, self-esteem and cooperation. Child guidance shall meet the individual needs of each child.
2. **Consistent and reasonable application of rules.** Rules, expectations and limits shall be applied consistently and carried out in a manner consistent with a child's developmental ability.
3. The Child Care Facility shall use only constructive methods of guidance. This may include, but is not limited to interventions such as conflict resolution, encouraging the use of language skills, redirecting, providing choices, using praise or positive reinforcement, recognizing of a child's strengths, and allowing for individual differences.

Corporal punishment as defined in Section II.G in these Rules is strictly prohibited.
4. Shaming and embarrassment shall not be used.
5. The withholding of food, drink or rest shall not be used as punishment or threat of punishment.
6. No child shall be forced to eat or drink against his/her will.
7. No child shall be punished for soiling, wetting or not using the toilet.
8. No child shall be subjected to cruel or severe punishment humiliation, verbal abuse or unusual confinement.

9. The withholding of any adaptive equipment that would result in loss of a child's independence shall not be used.
10. No child shall be subjected to an action or practice detrimental to the welfare of children as defined by the Department of Health and Human Services in Section XIII.A.5.

Section XVIII. HEALTH/MEDICAL

A. Immunization

1. **Certificate of immunization for children.** For each child who is not attending public or private school, the facility shall require and have on file, within thirty (30) days of the child's first admission to the facility, and updated annually thereafter, a Certificate of Immunization which clearly illustrates each child's present immunization status. Each child's record must reflect an up-to-date status according to the Day Care Immunization Standards set forth by the Maine Bureau of Health Immunization Program (based on recommendations made by the Centers for Disease Control's Advisory Committee on Immunization Practices).

Dates of immunization (month/day/year) and vaccine type shall be on file for each of the following vaccine-preventable diseases:

- a) Measles;
- b) Mumps;
- c) Rubella;
- d) Diphtheria;
- e) Pertussis;
- f) Polio;
- g) Tetanus;
- h) Haemophilus influenzae Type b;
- i) Varicella;
- j) Hepatitis B; and
- k) Pneumococcal conjugate;

2. **Blood test demonstrating immunity.** A blood test demonstrating immunity to measles, mumps, and rubella can be provided as proof of immunity. Evidence of this shall be kept on file, and updated in a timely manner.

3. **Exceptions to proof of immunity.** No child shall be required under this rule to have any such immunization if his/her parent(s) states in writing a sincere religious or philosophical belief that it is contrary to the immunization requirements of this subsection or if the child's physician submits documentation that immunization against one or more of the diseases is medically inadvisable. A written statement must be included in the record of any child for whom such an exemption is being claimed. In the event of a disease outbreak, children not vaccinated for religious, philosophical, or medical reasons must be excluded from the program until the outbreak no longer exists, or until the child receives the necessary immunization.
 4. **Certificate of immunization for staff.** For staff born after 1956, the facility shall obtain and have available a Certificate of Immunization for measles, mumps, rubella, tetanus and diphtheria. A laboratory blood test proving immunity may also be accepted. Documentation of immunity against measles, mumps and rubella is not required for staff born prior to 1957. No person shall be required to provide such documentation if she/he provides in writing the opposition for sincere religious or philosophical reasons or provides written documentation from a physician that such immunization is medically inadvisable.
 5. **Documenting exemptions to immunization.** The facility shall maintain a list of enrollees and staff exempted for religious, philosophical or medical reasons.
 6. **Immunization records and reporting requirements.** The facility shall make immunization records available to the Department of Health and Human Services Bureau of Health upon request.
- B. **Medical statement**
1. **Request for physician's or psychologist's report.** When the Department has reasonable cause to believe that the applicant, or a person employed or residing in the facility may have a physical or mental health problem which would have a detrimental impact on the care of children, which may include, but is not limited to substance abuse and/or addiction, or chronic or contagious illness, the Department may request the applicant or licensee to provide the Department with a physician's

or psychologist's report. This report shall include a diagnosis of any physical or mental conditions and the professional's assessment of the impact or the effect of the condition and its treatment on the functioning of such individual.

2. **Exceptions to undergoing evaluations.** No person shall be required to undergo a physical examination or other evaluation if he or she states in writing that it is contrary to his or her sincere religious or philosophical teachings and practice, unless there is probable cause to suspect that he or she manifests the symptoms of a disease or illness which may affect the health, safety, or welfare of a child in care.

C. Health care consultation

1. **Health consultation requirements for facilities licensed for thirteen (13) or more children:**

- a) The facility shall have a written agreement with a physician, a nurse practitioner, physician's assistant, or nurse with pediatric or childcare experience to serve as a health consultant.
- b) The facility shall have a written plan approved by the health care consultant which shall include:
 - 1) Evidence of access to emergency medical services;
 - 2) Prevention and control of communicable diseases;
 - 3) Policy on administration of medication in compliance with Section XVIII.F, including identification of staff members permitted to dispense medication and procedures for documentation of the administration or dispensing of medication; and
 - 4) Provision of training to all facility staff in the facility's health care plan.

2. **Health consultation requirements for facilities licensed for three (3) to twelve (12) children.** The facility licensed for 3-12 children shall ensure that a manual of written guidelines for the prevention and control of communicable diseases and other appropriate health practices for Child Care Facilities of this size be available to and read and understood by all staff.

D. Disease surveillance

1. **Daily observation.** The facility shall observe the child each day at the time of arrival and throughout the child's stay for obvious signs of illness such as fever, diarrhea, vomiting, or skin rashes.
2. **Apparent illness of a child.** In the event of an apparent illness of a child, the facility shall follow appropriate health practices.
 - a) The facility licensed for 3-12 children shall follow written recommendations according to Section XVIII.C.2, above.
 - b) The facility licensed for 13 or more children shall follow its written health care policy statement.

E. Accidents and sudden illness

1. **Notification of parent or legal guardian.** The facility shall immediately notify the child's parent or legal guardian of any illness, serious injury or accident involving their child. An adult designated by the parent or legal guardian shall be notified immediately should the parent or legal guardian be unavailable at the time of emergency.
2. **Documentation of incidents.** The facility shall document all accidents, injuries, or emergencies in the child's record on the day of the occurrence and make such reports available to the parent or legal guardian.

F. Administration of medication

1. **Written orders required.** The facility shall administer prescription medication only upon written order from a physician or according to the labeled instructions on the original medicine container and with a written, signed and dated request from the parent or legal guardian.
2. **Recording the administration of medications.** The facility shall record the administration of all medications, including the amount, time, date and signature of the administrator of the medication.

3. **Nonprescription medications.** The facility shall not administer any nonprescription medications to a child without written, signed and dated parental permission naming the medication and dosage. Verbal permission is allowed in emergencies if the provider makes a written note and then gets written permission from the parent as soon as possible.

Section XIX. ENVIRONMENT AND SAFETY

A. General condition of the facility and surrounding premises.

1. The facility and surrounding premises shall show evidence of routine maintenance. Repair of wear and tear shall be made in a timely fashion.
2. The facility shall take immediate steps to correct any condition in the physical facility or on the premises, which poses a danger to children's life, health or safety.

B. Code compliance

1. **Local codes and ordinances.** The facility shall maintain, and provide to the Department on request, documentation that indicates that the facility complies with local codes and ordinances, including zoning.
2. **State Fire Marshal's Office approval.** Prior to initial operation and on an biennial basis, the facility shall receive approval from the State Fire Marshal's Office or designee.
3. **Satisfactory water.** The facility shall, prior to initial operation and annually thereafter, submit a written satisfactory water analysis report completed by the Maine Department of Health and Human Services, Division of Health Engineering or other approved laboratory, if the facility's water is from any source other than an approved public water supply.
4. **Satisfactory lead levels.** Child Care Facilities shall have an annual screening for potential lead hazards. A facility may be exempt from this screening if:
 - a) The facility was constructed in 1978 or later;
 - b) The facility has been certified as lead-safe within the previous twelve (12) months;
 - c) The facility has been certified as lead-free; or

- d) The facility does not serve any children under six (6) years of age.

C. Sanitation, health and safety

The premises, toys, and equipment must be kept in a state of cleanliness and maintained in a condition ensuring health and safety.

D. Buildings, space, furnishings and equipment

1. **Minimum usable space.** The facility shall provide a minimum net area of thirty-five (35) square feet of usable space per child.

- a) Areas not to be calculated as usable space include but are not limited to: hallways, lockers, cubbies, door swings, closets, supply cabinets, corridors, bathrooms, teachers' spaces, food preparation areas, and offices.
- b) The maximum child occupancy of any play room shall not exceed the usable space per child requirement at any time, except for large group activities as reflected in the written program schedule, required in Section XVI.A.7.

2. **Heating**

- a) A minimum temperature of at least sixty-eight (68) degrees measured within two (2) feet of the floor shall be maintained for children's playrooms during the heating season.
- b) Heating units shall be safeguarded in a manner to prevent injuries and burns.
- c) Portable heaters, except those approved by the Department of Public Safety, State Fire Marshal's Offices, are prohibited.

3. **General safety**

- a) All stairs used by children shall be equipped with a solidly mounted handrail.

- b) All stairs in areas used by infants, toddlers and pre-school age children shall be enclosed by walls or railings or protected by a gate or door.
- c) Electrical outlets in areas used by infants, toddlers and pre-school age children shall be protected by safety caps, plugs, or other means.
- d) Lead paint shall not be used on toys, furniture or any interior surfaces.
- e) All medications, cleaning supplies, toxic substances, matches, lighters, power tools, and items dangerous to children shall be stored in such a way as to be inaccessible to children, even in rooms which are not used by children.
- f) Weapons, firearms and ammunition are prohibited in child care facilities.

4. Lighting and Ventilation

- a) Every room, hallway and stairway used by children shall be well-lighted.
- b) Natural light is required in any room in which any child's attendance exceeds four (4) hours per day.
- c) Doors and windows used for ventilation shall be equipped with securely fastened screens.
- d) Every room, hallway, and stairway used by children shall be adequately ventilated.
- e) Smoking is prohibited on the premises when children are present. This includes all indoor and outdoor areas used by the facility, where children may be present.

5. Furnishings

- a) Easily accessible and individual space shall be made available for children's outside clothing and personal possessions.
- b) A telephone (non coin-operated) in working condition must be available in the facility.
- c) A separate mat, bed, or cot with blanket or sleeping bag shall be provided to each toddler and pre-school age child in care for more than four hours per session.
- d) At least two feet of space shall be provided between mats, cots, and cribs when in use.
- e) Mats, cots, and blankets shall be assigned and labeled for each child or disinfected prior to use by a different child.
- f) Cots, mats, and blankets shall be kept clean.
- g) The facility shall assign each child his/her own toilet articles (toothbrush, brush, comb, etc.) and personal items (towel, drinking glass) when the use of such is offered.

6. Toilet facilities

- a) One toilet and wash basin is required for every twenty (20) children.
- b) A step, low platform or other means shall be provided to children needing assistance in reaching toilets or wash basins.
- c) Disposable paper products shall be utilized. Alternatively, clean individually assigned wash cloths and towels may be distributed for a maximum of one day's use.
- d) Washing and toilet facilities with both hot and cold running water and soap shall be provided.
- e) Water supply and sewage disposal shall meet the standards of the Division of Health Engineering.
- f) The facility shall provide a means of maintaining a water temperature of 120° Fahrenheit or less in taps available for use by children.

g) Drinking water shall be available to the children.

7. **First aid.** The facility shall be equipped with at least one easily accessible first aid kit and a current manual of first aid measures. The type and quantity of supplies is to be determined by current guidelines of the American Red Cross or other recognized health organization or by the facility's Health Consultant.

E. **Outdoor play area**

1. **Access to sufficient outdoor space.** The facility must have access to an outdoor play area with sufficient space for safe play for all children.
2. **Hazardous outdoor conditions.** Where hazardous conditions exist in the outdoor play area, the children shall be protected from those conditions by fencing or other appropriate barriers.
3. **Outdoor supervision.** All parts of the playground must be under constant view of the supervising staff.
4. **Playground exits.** There shall be an exit from the playground other than through a building.
5. **Surfaces.** Surfaces used under climbers, swings and at the bottom of slides shall be energy absorbing material such as grass, mulch, sand, or bark. Concrete or asphalt shall not be used.
6. **Safe outdoor play equipment.** Outdoor play equipment shall be safely constructed and of a size suitable to the age and needs of all children.
7. **Drainage.** Play areas shall be well drained.
8. **Hazard free play area.** The play area shall be free of hazards and inspected by staff daily, prior to children having access to the area.
9. **Sand or sawdust.** Sand or sawdust boxes or piles shall be in a safe and sanitary condition.
10. **Sun and shade.** Outdoor play areas shall provide both shade and sun.
11. **Safe equipment.** All swings, climbing equipment, and slides shall be securely fastened to the ground.

Commercially manufactured indoor/outdoor equipment specifically designed to be stable and safe without being fastened to the ground or floor shall be allowed under this rule.

12. **Swimming pool cleanliness.** Swimming or wading pools shall be cleaned and emptied daily or equipped with a filtration and/or treatment system.
13. **Swimming pools when not in use.** Swimming or wading pools must be emptied or removed from play areas when not in use or otherwise protected by fencing or suitable barriers to prevent access by children without staff approval, observation and supervision.

F. Fire evacuation drills

1. **Monthly fire drills.** Fire evacuation drills shall be conducted at least once a month for all children and adults present using at least two (2) means of exit.
2. **Fire drill procedures.** Fire drills shall be conducted according to policies and procedures which are posted in each room utilized by children.
3. **Record of fire drills.** A record of drills shall be available for inspection by the Department of Health and Human Services, the State Fire Marshal's Office and local fire inspectors.

- G. Animals in the facility.** When animals are in a facility, supervision must be such to ensure that neither children nor the animals are injured. There shall be proof of rabies vaccinations for household dogs and cats. Pets must not present a danger to children or guests. The facility shall be free of pet odors and waste shall be disposed of regularly. All indoor and outdoor areas used by children shall be free from pet waste.

Section XX.

FOOD AND KITCHEN FACILITIES

A. Meals and snacks

1. **Well balanced meals and snacks.** The facility shall serve well-balanced meals and snacks.
 - a) Snacks shall be simple and nourishing and include items such as milk, fruit or fruit juice and crackers.
 - b) Fruit juice or a milk substitute shall be offered to children prohibited from drinking milk for medical reasons.
 - c) Lunch, which includes a beverage, shall consist of food from each of the following groups:
 - 1) Vegetables or fruit or both;
 - 2) Meat, poultry, fish, cheese, eggs, or protein substitute;
 - 3) Enriched bread or equivalent serving of cornbread, muffin, biscuit, pasta, noodles, rice, etc.;
 - 4) Milk as a beverage. Fruit juice or a milk substitute shall be offered to children prohibited from drinking milk for medical reasons.
 - d) Each lunch and dinner and breakfast plus a snack served shall provide one third (1/3) of a child's daily nutritional requirements and meet the special dietary needs of each child. Food required by special diets may be provided by the center or may be brought to the center by the parents.
 - e) Portions of food served shall be suited to the child's age and appetite.
 - f) Information regarding children's allergies will be readily accessible to the food preparation staff, who will prepare food accordingly.
2. **Food supplied from outside the facility.** Box/bag lunches or other food supplied from outside the facility shall be kept refrigerated if required.

3. **Hand-washing.** The facility shall be responsible for hand washing of all adults and all children immediately prior to snacks and meals.
4. **Supervision during mealtimes.** Children shall be under direct visual observation during mealtimes.

B. Kitchen facilities

1. **Kitchen areas shall be well-lighted, clean and orderly.**
2. **Appropriate temperature.** All readily perishable food shall be kept appropriately hot or cold.
3. **Perishable food.** All readily perishable food shall be kept at room temperature for no more than one hour while being prepared or served.
4. **Refrigerator temperature.** Refrigerators shall be kept at a temperature not to exceed forty-one degrees (41°) Fahrenheit. A thermometer shall be kept in the refrigerator at all times.
5. **Freezer temperature.** Freezers shall be kept at a temperature not to exceed zero (0°) Fahrenheit. A thermometer shall be kept in the freezer at all times.
6. **Milk products.** All milk products shall be pasteurized.
7. **Preparation and eating surfaces.** All food preparation and eating surfaces shall be washed before and after use.
8. **Staff hand washing.** Staff shall wash their hands both before and after food handling or preparation.
9. **Dish washing.** Dishes shall be washed in an automatic dishwasher or thoroughly washed in warm soapy water and rinsed in hot water.
10. **Paper products.** Paper products shall have a single use and shall be disposed of immediately after use.
11. **Use of the food preparation area.** The food preparation area shall not be used for other activities when food or drink is being prepared or served.
12. **Food storage.** All food shall be stored, prepared and served in a sanitary

manner.

13. **Cooked food.** All cooked foods shall be cooked to proper temperatures. All reheated foods shall be cooked to at least one hundred and sixty-five degrees (165°) Fahrenheit.
14. **Staff who are ill.** Staff who are ill shall not work in the food preparation area. Staff with open sores that cannot be covered shall not handle or prepare food.
15. **Transporting food.** When food is transported, sanitary containers shall be used to keep hot food at or above at least one hundred and forty degrees (140°) Fahrenheit and cold food at or below 40° Fahrenheit.
16. **Children in meal preparation areas.** Children may be permitted in meal preparation areas only when under the direct supervision of a staff person present and there is no danger of injury from equipment.
17. **Hot foods and liquids.** All hot foods and liquids shall be out of children's reach. A staff person who is cooking or drinking a hot beverage shall not hold children.
18. **Heating formula, milk or food.** Formula, milk or food, if heated, shall be served to children only after contents have been mixed, stirred or shaken and tested.
19. **Live animals.** Live animals shall not be kept or allowed in areas where food or drink is being prepared.
20. **Sinks.** Proper sinks with approved plumbing and hot and cold water under pressure shall be available in all rooms where food or drink is prepared or utensils are washed. Bathrooms are not to be used for preparing foods or washing dishes.
21. **Cleanable surfaces.** Surfaces coming into contact with food or drink shall be easily cleanable, in good repair and shall not be made of toxic material.
22. **Sanitary conditions.** Kitchen facilities shall be maintained in a sanitary condition free of insects, rodents, dust and other contaminants.

23. **Wastewater pipes.** Wastewater pipes shall not be located over food preparation, storage or serving areas.
24. **Food stored in the refrigerator.** Containers of food in the refrigerator shall be labeled and dated. Food stored in the refrigerator, including lunch boxes, shall be stored in such a manner so as to permit free circulation of cool air. All foods must be covered.
25. **Frozen foods.** Frozen foods shall be thawed in the refrigerator, under cold running water, or defrosted in the microwave oven.
26. **Washing fresh fruits and vegetables.** Fresh fruits and vegetables shall be thoroughly washed before use.
27. **Food served to only one child.** Any food served to a child shall not be served to another child.
28. **Preventing contamination.** All utensils, equipment and food shall be stored in a clean, dry place free from insects, rodents, dust and other contamination and shall be handled in such a manner as to prevent contamination.
29. **Disposing contaminated food.** All contaminated food shall be disposed of promptly. Swelled, rusted, dented or leaky canned food or drink shall not be consumed and shall be disposed of promptly.
30. **Single-service utensils.** Single-service utensils shall be used only once.

Section XXI. TRANSPORTATION

A. Vehicle Requirements

1. **Licensed driver.** Any person authorized by the facility to transport children shall be properly licensed to operate that class of vehicle.

All staff and volunteers who transport children as part of their regular duties shall complete the Department approved children's transportation training.

2. **Number of passengers.** The number of persons transported in any vehicle shall not exceed the seating capacity of the vehicle.

3. **Safety in vehicles.** No child shall be permitted to remain in any vehicle while it is unattended. Children must be seated with seat belts fastened or in child safety seats (when applicable according to State law) while vehicle is in motion.
4. **The driver shall wear a seat belt.**
5. **All children age twelve (12) and under shall ride in the back seat.**
6. **One child per seat belt.** The buckling of more than one child in a single seat is prohibited.
7. **Adult to child ratios in vehicles.** There shall be one (1) adult present for up to six (6) pre-school age children, infants or toddlers transported. Additional pre-school age children shall be supervised in accordance with staff/child ratios, Sections XXVII.A. and XXIX.A.1.

In addition one (1) staff person or adult volunteer per every three (3) non-ambulatory children must be present in the vehicle.

8. **Child safety seats.** The following standards shall be met regarding the use of car safety seats:

	INFANTS	TODDLER	YOUNG CHILDREN (up to 8 years old)
WEIGHT	Birth to 1 year or up to 22 lbs.	Over 1 year and Over 20 lbs up to 40 lbs.	Over 40 lbs.- up to 80 lbs.
TYPE of SEAT	Infant only or rear-facing convertible	Convertible / Forward-facing	Belt positioning booster seat
SEAT POSITION	Rear-facing only	Forward-facing	Forward-facing
ALWAYS MAKE SURE:	Children to one year and at least 20 lbs. in rear-facing seats Harness straps at or below shoulder level	Harness straps should be at or above shoulders Most seats require top slot for forward-facing	Belt positioning booster seats must be used with both lap and shoulder belt. Make sure the lap belt fits low and tight across the lap/upper thigh area and the shoulder belt fits snug crossing the chest and shoulder to avoid abdominal injuries

--	--	--	--

- B. **Limitations of vehicle requirements.** The vehicle requirements above shall not apply to vehicles not operated by the facility, such as school buses, taxis and vehicles operated by parents or public transportation agencies.
- C. **Weapons in vehicles.** Weapons shall not be transported in any vehicle in which children are riding.

Section XXII. REPORTING CHILD ABUSE AND NEGLECT

- A. **Mandatory reporting.** The facility shall make all childcare personnel aware of their status and responsibility as mandated reporters to the Department of Health and Human Services when there is reasonable cause to suspect abuse or neglect of a child under the age of eighteen (18).

When reports are made in good faith, reporters are immune from civil or criminal liability for the act of reporting or participating in the investigation or proceeding.

The Department will respect a reporter's request for confidentiality to the extent possible. The identity of reporters will not be revealed unless required to protect the child from serious harm..

- B. **Policy for handling suspected instances of child abuse or neglect.** The facility shall adopt written policy for handling suspected instances of child abuse or neglect in accordance with Maine law.
- C. **Facility cooperation in investigations.** The facility staff shall cooperate in the investigation of allegations of abuse and neglect.

Section XXIII. INFANT/TODDLER PROGRAM

In addition to the preceding Rules, Infant/Toddler programs serving children ages six (6) weeks to thirty-six (36) months shall comply with the following Rules:

- A. **Restriction to first floors.** Infant/Toddler programs are restricted to first floors or floors having direct exit at grade level.
- B. **Promoting developmental needs.** The developmental needs of infants and toddlers shall be promoted in the following ways:
 - 1. Each child shall be allowed to form and follow his or her own pattern of sleeping and waking periods;
 - 2. Toys shall be large enough to prevent swallowing or choking;
 - 3. Each infant/toddler's position and/or places shall be changed at least each half hour, when infant/toddler is awake;
 - 4. Infants and toddlers shall spend time outdoors daily when weather permits;
 - 5. Infants and toddlers may be combined in a group only when the total number does not exceed eight (8); and
 - 6. Infants and toddlers shall not occupy the play area at the same time as older children.
- C. **Feeding**
 - 1. The facility shall be responsible for hand-washing of all adults and all infant and toddlers prior to all feedings.
 - 2. Formula and breast milk shall be labeled with the child's name, dated, stored in the refrigerator and discarded within forty-eight (48) hours. Frozen breast milk shall be discarded within two (2) weeks.
 - 3. No previously opened baby food jars shall be accepted at the Child Care Facility. Open jars shall be disposed of or returned to the parent the same day they are opened.

4. Formula shall be made from commercially prepared products.
5. The feeding schedule shall be in accordance with the infant's needs rather than according to the hour.
6. Infants shall be held for bottle feeding.
7. If breast milk or formula is to be warmed, bottles shall be placed in a pan of hot (not boiling) water for no longer than five (5) minutes, after which the bottle shall be shaken well and the milk temperature tested before feeding. Bottles of formula or breast milk shall never be warmed in a microwave oven.
8. A chair or feeding table shall be provided as appropriate.
9. Dishes and nursing bottles used shall be unbreakable.

D. Diapering/toileting

1. Wet or soiled diapers and other clothing shall be changed promptly
2. Wet or soiled disposable diapers shall be placed in a lined, lidded container, separate from other trash or garbage and separate from play or food preparation areas.
3. Children in diapers or other soiled or wet clothing shall be changed on a washable vinyl table or mat which is cleaned and sanitized after each use or has a disposable single use covering.
4. The changing table or mat must be located in a designated area. The kitchen/food preparation area may not be used as a designated area.
5. Staff shall wash their hands and the child's with soap and warm running water after every diaper change.
6. Child Care Facilities using cloth diapers shall comply with diapering guidelines available from the Department of Health and Human Services, Bureau of Health.
7. All containers of soiled cloth or disposable diapers shall be removed daily from the childcare areas.

E. Toileting practice

1. The facility shall inform parents as to its toilet training practice as it applies to their child.
2. Toileting practices shall be developed by the family and staff, and must be based on the individual needs of the child.
3. Potty chair receptacles, shall be emptied, rinsed, and sanitized after each use.

F. Napping/resting

1. Each infant/toddler shall be allowed to follow his/her own sleep/rest pattern.
2. Infants shall be placed on their backs for sleeping, unless contraindicated by a physician. Placing children on their abdomens for any reason shall be avoided, unless specifically instructed by the child's physician to do so.

G. Cots, cribs and bedding:

1. A crib shall be provided for each child up to eighteen (18) months of age.
2. No crib shall be used by more than one child at a time.
3. Each crib shall be of sturdy construction with bars closely spaced so as to prevent injury.
4. Each crib shall be equipped with a waterproof, firm, snug fitting mattress.
5. No child shall be placed directly on a waterproof crib mattress or crib mattress cover.
6. Restraining devices of any type shall not be used in cribs.
7. Crib sides shall be up while the child is in the crib.

8. Pillows are prohibited in cribs.
9. No double or multi-decked cribs may be used.
10. Cots and/or mats and cribs used by any infant or toddler shall be cleaned and disinfected on a regular basis.
11. Sheets shall be washed before being used by another child.
12. There shall be at least one designated wheeled evacuation crib.

Section XXIV. SCHOOL-AGE CHILDCARE PROGRAM

This section applies to facilities as follows:

Facilities licensed for thirteen (13) or more, having a School-Age Childcare Program.

Facilities licensed for twelve (12) or fewer, serving school-age children exclusively.

- A. **Additional rules for school-age programs.** In addition to the preceding Rules, School-Age Programs shall comply with the following:
 1. There shall be space, activities and equipment for group and individual activity.
 2. Planned activities shall reflect an awareness of the social, emotional, physical and cognitive needs of older children.
 3. The program shall allow time for individual self-directed activity.
 4. All staff shall be at least seventeen (17) years old.
- B. **Exemptions for Child Care Facilities located in school buildings.** Child Care Facilities located in school buildings, as defined by and approved by the Department of Education, shall be exempt from the following rules:
 1. Section XII.A.9 (Immunization Records);
 2. Section XIX.B.1-3 (Code Compliance);

3. Section XIX. D.3.b (General Safety);
4. Section XIX.D.4.c (Window Screens);
5. Section XXIX.A.4.b (Staffing); and
6. Sections XXVI.A.2.a, XXVIII.A.4.a, XXVIII.C.3.a and XXVIII. D.3.a (Age of staff).

Section XXV. OCCASIONAL CARE PROGRAM

Occasional Care Programs shall mean those Child Care Facilities caring for children on a drop-in or otherwise irregular basis, for example, those located in ski areas or shopping centers.

A. **Additional rules for occasional care programs.** In addition to the preceding Rules, Child Care Facilities providing occasional care shall comply with the following:

1. The facility shall have a procedure to ensure that a child is discharged only to the person who enrolls the child or by another individual authorized by the parent or person who enrolls that child.
2. The facility shall have a means of identifying each child by a name tag or other method while in care at the facility.
3. The facility shall not administer any medications, prescription or non-prescription, to children in care.

B. **Exemptions for occasional care programs .** These facilities shall be exempt from the following:

1. Section XII.A.9 (Immunization Record);
2. Section XII.A.3 (Place of parent employment);
3. Section XII.A.4 (Name, address, and phone number of parents' place of employment); and

4. SectionXII.A.10 (Name, address, and phone number of child's physician and dentist).

CHAPTER II SMALL CHILDCARE FACILITY

The Rules in this Chapter and Chapter I apply to all Child Care Facilities that are licensed as Small Childcare Facilities.

“Small Childcare Facility” means a house or other place, not the residence of the operator, in which a person, or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 -12 children under the age of 13.

Section XXVI. PERSONNEL

A. Staff Qualifications for Facilities Licensed for 3-12 Children

1. **Director and/or head teacher qualifications.** The Director and/or Head Teacher shall be at least twenty-one (21) years of age, hold a current certification in first aid and CPR and meet the following requirement:

Twelve (12) hours of training in healthy, safe environments; child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development; childcare; and have at least six (6) months experience working in a childcare program or other children’s program..

2. **Qualifications of other staff.**

- a) All staff shall be at least eighteen (18) years old.
- b) All staff shall have a high school diploma or equivalent or be attending high school or be enrolled in a GED preparation program.
- c) All staff shall demonstrate the following:
 - 1) The ability and willingness to comply with all applicable laws and regulations;
 - 2) The ability to provide safe and compassionate services; and
 - 3) A history of honest and lawful conduct.

Section XXVII. STAFF CHILD REQUIREMENTS

A. **Staff-Child Ratios for Small Children's Day Care Facilities**

1. **The maximum number of children to be assigned to one (1) adult.** The maximum number of children to be assigned to one adult, exclusive of service staff (clerical, cooking and maintenance) shall be as follows: (this includes pre-school children related to the operator or staff by blood, marriage or adoption)
 - a) If all children are under two (2) years of age, one staff may care for up to four (4) children;
 - b) One (1) staff may care for up to eight (8) children between the ages of two (2) years and five (5) years old plus two (2) children over the age of five (5) years;
 - c) One (1) staff may care for up to twelve (12) children who are over the age of five (5) years; or
 - d) One (1) staff may care for up to three children under the age of two (2) years, plus up three (3) children between the ages of two (2) and five (5) years, plus up to two (2) children over the age of five (5) years.
2. **The maximum number of children to be assigned to two (2) adults.** The maximum number of children to be assigned to two (2) adults, exclusive of service staff shall be as follows:
 - a) If all children are under two (2) years of age, two (2) staff may care for up to eight (8) children;
 - b) Two (2) staff may care for up to twelve (12) children over the age of two (2) years old; or
 - c) Two (2) staff may care for up to six (6) children under the age of two (2) years, plus up to six (6) children over two (2) years old, for a maximum of twelve (12) total children.
3. **The maximum number of children to be assigned to three (3) adults.** The maximum number of children to be assigned to three (3) adults, exclusive of service staff shall be as follows:
 - a) Three (3) staff may care for up to twelve (12) children if all are under the age of two (2) years;

- b) Three (3) staff may care for up to twelve (12) children if all are over the age of two (2) years; or
- c) Three (3) staff may care for up to nine (9) children under the age of two (2) years, plus three (3) children over two (2) years old, for a maximum of twelve (12) total children.

Age of Children	Minimum Staff Child Ratios - 1 staff	Minimum Staff to Child Ratios - 2 staff	Minimum Staff to Child Ratios - 3 staff
All 6 weeks to 2 years	1 for 4 children	2 for 8 children 3 for 12 children	
All 24 months and older	1 for 8 children under 5 years + 2 children over 5 years	2 for 12 children 3 for 12 Children	
All over 5 years old (School age)	1 for 12 children	2 for 12 children 3 for 12 children	
Mixed ages	1 for 3 children under 2 years plus 3 children 2 to 5 years plus 2 children over 5 years. <i>Maximum: 6 plus 2 school age</i>	2 for 6 children under 2 years plus 6 children over 2 years. <i>Maximum: 12 total</i>	3 for 12 children. No more than 9 children under 2 years. <i>Maximum: 12 total</i>

4. When there is a combination of ages within a group, the group size and the number of required staff shall be determined on the basis of the age of the youngest child.

B. Staff training. All Small Childcare Facilities shall provide for twelve (12) hours of ongoing training per year for all childcare staff.

CHAPTER III CHILDCARE CENTERS

The rules in this Chapter and Chapter I apply to all Child Care Facilities that are licensed as Childcare Centers.

Childcare Center means:

- (1) A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or*
- (2) Any location or locations that are operated as a single day care program or by a single person or persons when there are more than 12 children being cared for.*

Childcare Center does not include any facility operated as a nursery school, a facility operated by a home day care provider or a summer camp established solely for recreational and educational purposes or a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.

Section XXVIII. PERSONNEL

A. Staff qualifications for facilities licensed for 13-20 children.

- 1. Director and/or head teacher qualifications. Effective November 12, 2002 through November 12, 2003,** the Director and/or Head Teacher shall be at least twenty-one (21) years of age and meet one of the following:
 - a) Graduation from an accredited high school or its equivalent and 12 months of employment in a licensed Child Care Facility licensed for 13+ or 12 months experience as the operator of a Child Care Facility licensed for 3-12 (including Family Day Care), and six hours training in childcare, early childhood education, topics related to operating a Child Care Facility, or other subjects related to the age or characteristics of children

for whom care is planned.

- b) One year (30 credit hours) of college courses including 6 credit hours in child care, child development, child care administration, behavioral sciences or closely related subjects and 6 months experience (employment or college practicum) in a licensed child care facility (13+) or six months experience (employment or college practicum) operating a child care facility for 3-12 children.
- c) Child Development Associate (CDA) as awarded by the CDA National Credentialing Program.

2. **Director and/or head teacher qualifications. Effective November 13, 2003,** the Director and/or Head Teacher shall be at least twenty-one (21) years of age and meet one of the following:

- a) Graduation from an accredited high school or its equivalent and twelve (12) months of employment in a licensed Child Care Facility licensed for thirteen (13) or more children or twelve (12) months experience as the operator of a Child Care Facility licensed for three to twelve (3-12) (including Family Day Care), and twelve (12) hours training in healthy, safe environments; child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development, childcare, early childhood education, topics related to operating a Child Care Facility, or other subjects related to the age or characteristics of children for whom care is planned.
- b) Thirty (30) credit hours of college courses including six (6) credit hours in childcare, child development, childcare administration, behavioral sciences or closely related subjects and six (6) months experience (employment or college practicum) in a Child Care Facility licensed for 13 or more children) or six (6) months experience (employment or college practicum) operating a Child Care Facility for three (3) to twelve (12) children.
- c) Child Development Associate (CDA) as awarded by the CDA National Credentialing Program.

3. **The facility shall employ a minimum of one (1) Director or Head**

Teacher.

The Director/Head Teacher may be the operator or licensee.

4. Qualifications of other staff.

- a) All staff shall be at least eighteen (18) years old.
- b) All staff shall have a high school diploma or equivalent or be attending high school or be enrolled in a GED preparation program.
- c) All staff shall demonstrate the following:
 - 1) The ability and willingness to comply with all applicable laws and regulations;
 - 2) The ability to provide safe and compassionate services; and
 - 3) A history of honest and lawful conduct.
- d) **Group leader qualifications.** Group leader qualifications shall be in accordance with Section XXVIII.F.2

B. Ongoing training. Child Care Facilities licensed for 13-20 children shall provide for all childcare staff as follows:

- 1. Staff scheduled to work 18 hours per year
20 hours or less per week
- 2. Staff scheduled to work 30 hours per year
more than 20 hours per week

C. Staff qualifications for facilities licensed for 21 - 49 children.

- 1. **Director and/or Head Teacher qualifications.** *Effective November 12, 2002 through November 12, 2003,* the Director/Head Teacher shall be at least twenty-one (21) years of age and meet one of the following:
 - a) Graduation from an accredited high school or its equivalent and 12 college level credit hours or the equivalent in documented education or training in early childhood education, child development or a closely

related field and two year's experience in a Child Care Facility licensed for 13 or more.

- b) Two years (60 credit hours) of college courses including 9 credit hours in child care, child development, child care administration, behavioral sciences or closely related subjects and 6 months experience (employment or college practicum) in a licensed Child Care Facility (13+) or six months experience (employment or college practicum) operating a Child Care Facility for 3-12 children under these rules.
- c) Child Development Associate (CDA) as awarded by the CDA National Credentialing Program.

2. Director and/or Head Teacher qualifications. Effective November 13, 2003,
the Director and/or Head Teacher shall be at least twenty-one (21) years of age and meet one of the following:

- a) An Associate in Arts/Associate in Science (AA/AS) in Early Childhood Education; or
- b) An AA/AS with twelve (12) credits in Early Childhood Education or a related field and two (2) years direct childcare experience; or
- c) Thirty (30) college credits in Early Childhood Education with one (1) year direct childcare experience; or
- d) Child Development Associate (CDA) as awarded by the CDA National Credentialing Program with three (3) years direct childcare experience; or
- e) Five (5) years direct childcare experience and one hundred and thirty five (135) hours training in healthy, safe environments; child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development, childcare, early childhood education, topics related to operating a Child Care Facility, or other subjects related to the age or characteristics of children for whom care is planned.

- f) Directors and/or Head Teachers of School-Age-Care Programs will have an AA/AS in Early Childhood Education or a closely related field, such as elementary education, youth development, or recreation management or Thirty college credits in Early Childhood Education or a closely related field, such as elementary education, youth development, or recreation management or d. or e. above.

3. **Qualifications of other staff.**

- a) All staff shall be at least eighteen (18) years old.
- b) All staff shall have a high school diploma or equivalent or be attending high school or be enrolled in a GED preparation program.
- c) All staff shall demonstrate the following:
 - 1) The ability and willingness to comply with all applicable laws and regulations;
 - 2) The ability to provide safe and compassionate services; and
 - 3) A history of honest and lawful conduct.

4. **Group leader qualifications.** Group leader qualifications shall be in accordance with Section XXVIII.F.2.

5. **Ongoing training.** Child Care Facilities licensed for 21-49 children shall provide for all childcare staff as follows:

- a) Staff scheduled to work 18 hours per year
20 hours or less per week
- b) Staff scheduled to work 30 hours per year
more than 20 hours per week

D. **Staff qualifications for facilities licensed for 50 or more children.**

- 1. **Director and/or Head Teacher qualifications.** Effective November 12, 2002 through November 12, 2003, the Director/Head Teacher shall be at least twenty-one (21) years of age and meet one of the following:

- a) Two years of college courses (60 credits) including 12 credit hours in early childhood education, child development, child care administration behavioral sciences or a closely related field and one year's experience in a Child Care Facility licensed for 13 or more children.
- b) A Bachelor's or Master's degree in early childhood, child development child care administration, behavioral sciences or a closely related field, 6 credit hours of business management/administration, and 6 months experience (employment or college practicum) in a Child Care Facility licensed for 13 or more.
- c) A Bachelors or Masters degree in a non-related field with 12 credit hours in early childhood, child development or closely related courses 6 credit hours of business/management/ administration and 1 year's experience in a Child Care Facility licensed for 13 or more.

2. **Director and/or Head Teacher qualifications . Effective November 13,2003,** the Director and/or Head Teacher shall be at least twenty-one (21) years of age and meet one of the following:

- a) A Bachelor of Science/Bachelor of Arts (BA/BS) in Early Childhood Education; or
- b) An Associate in Arts/Associate in Science (AA/AS) in Early Childhood Education and three (3) years direct childcare experience; or
- c) AA/AS in a related field with eighteen (18) credit hours in Early Childhood Education and three (3) years direct childcare experience; or
- d) BA/BS in a related field with eighteen (18) credit hours in Early Childhood Education and three (3) years direct childcare experience; or
- e) Child Development Associate (CDA) as awarded by the CDA National Credentialing Program with five (5) years direct childcare experience; or

- f) Seven (7) years experience and one hundred and eighty (180) hours of training in healthy, safe environments, child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development; childcare, early childhood education, topics related to operating a Child Care Facility; or other subjects related to the age or characteristics of children for whom care is planned.
- g) Directors and/or Head Teachers of School-Age-Care Programs will have a BA/BS in Early Childhood Education or a closely related field such as elementary education, youth development, or recreation management or an AA/AS in Early Childhood Education or a closely related field, such as elementary education, youth development, or recreation management and two years experience or meet requirements e. and f. above.

3. **Qualifications of other staff.**

- a) All staff shall be at least eighteen (18) years old.
- b) All staff shall have a high school diploma or equivalent or be attending high school or be enrolled in a GED preparation program.
- c) All staff shall demonstrate the following:
 - 1) The ability and willingness to comply with all applicable laws and regulations;
 - 2) The ability to provide safe and compassionate services; and
 - 3) A history of honest and lawful conduct.

4. **Group leader qualifications.** Group leader qualifications shall be in accordance with Section XXVIII F.2.

E. **Ongoing training.** Child Care Facilities licensed for 50 or more children shall provide for all childcare staff as follows:

- 1. Staff scheduled to work 18 hours per year

20 hours or less per week

2. Staff scheduled to work 30 hours per year
more than 20 hours per week

F. Other staff requirements for facilities licensed for 13 or more children.

1. If the Child Care Facility provides a kindergarten program, it must be staffed by a certified teacher.
2. The group leader or person having the primary responsibility for a group of children in a facility with thirteen (13) or more children shall be at least eighteen (18) years of age and meet one of the following:
 - a) Child Development Associate (CDA) as awarded by the CDA National Credentialing Program.
 - b) Six months experience working in a Child Care Facility licensed for 13 or more children.
 - c) One year (30 credit hours) of college work including a course in a child related subject

XXIX. STAFF CHILD REQUIREMENTS

A. Staff-child ratios

1. **The maximum number of children to be assigned to one adult.** For all facilities licensed for thirteen (13) or more children, the maximum number of children to be assigned to one adult, exclusive of service staff (clerical, cooking and maintenance) shall be as follows:
 - a) **Effective from the effective date of these Rules for a period of one year, Child Care Centers will maintain the following minimum adult to child ratios:**

--

Age	Staff to Child Ratio	Maximum Group Size
6 weeks - 12 to 15 months	1:4	12
12 to 15 months- 33 to 36 months	1:5	15
30 months- 6 years	1:8	24
36 months- 6 years	1:10	30
6 years-15 years	1:13	N/A

Effective September 15, 2005, Child Care Centers will maintain the following minimum adult to child ratios:

Age	Staff to Child Ratio	Maximum Group Size
6 weeks –1 year	1:4	10
1 year – 2 ½ years	1:5	15
2 ½ years-3 ½ years	1:8	24
3 years-Not yet school age 5 years	1:9	27 or
	1:10	25
School age 5 years- 15 years	1:13	N/A

Effective September 15, 2006, Child Care Centers will maintain the following minimum adult to child ratios:

Age	Staff to Child Ratio	Maximum Group Size
6 weeks –1 year	1:4	8
1 year – 2 ½ years	1:4	12 or
	1:5	10

2 ½ years-3 ½ years	1:7	21
3 years-Not yet school age 5 years	1:8 1:10	24 or 20
School age 5 years- 15 years	1:13	N/A

- b) When there is a combination of ages within a group, the group size and the number of required staff shall be determined on the basis of the age of the youngest child.
2. **Group leader for facilities licensed for 13-20.** The facility licensed for 13-20 children shall employ at least one group leader (see Section XXVIII.F.2) who may be the same person as the Director/Head Teacher. Aides or assistants may be employed to complete the ratios.
3. **Group leader for facilities licensed for twenty-one (21) or more .** The facility licensed for 21-49 or 50+ children shall employ one group leader per group of children. Aides or assistants may be employed to complete the ratios.
4. **Additional rules for facilities licensed for thirteen (13) or more .** All facilities licensed for thirteen (13) or more shall comply with the following:
 - a) A single staff member may provide care for six (6) or fewer children, regardless of age at the beginning and end of the day for a period of time not to exceed one hour.
 - b) At least two (2) staff members shall be present in the Child Care Facility whenever seven (7) or more children, regardless of age, are present.